

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 29TH MAY 2007 / 8TH JYAISHTA 1929

WP(C).No. 8484 of 2004(I)

AGAINST THE ORDER IN EP.103/1998 IN
AP.39/1996 of PRL.M.C., KOLLAM

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PETITIONER:

VIDHYADHARAN .T., HEAD CLERK,
VANITHA ITI, MEDAYIL MUKKU, KOLLAM,
REIDING AT VETTOLI THARAYIL, MANAKKARA,
SASTHAMCOTTA, KOLLAM.

BY ADV. SRI.B.SURESH KUMAR
SMT.T.V.NEEMA

RESPONDENTS:

1. MAHA RASHTRA APEX CORPORATION LTD.,
SYNDICATE HOUSE, MANIPAL 576 119, REP. BY THE
DEVELOPMENT OFFICER KOLLAM BRANCH, KOLLAM.

2.THE SENIOR SUPERINTENDENT VANITHA ITI,
MEDAYIL MUKKU, RAMANKULANGARA, KOLLAM.

R1 BY ADV. SRI.S.R.DAYANANDA PRABHU
SRI.K.S.RAJESH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 29/05/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX(WPC NO.8484/04)

PETITIONER'S EXTS.:

EXT.P1: TRUE COPY OF THE AWARD AP NO. 39/96 DATED 31.1.1997 PASSED BY THE ARBITRATOR.

EXT.P2: TRUE COPY OF THE EP NO.103/98 IN AP NO.39/96 DATED 27.5.1998 FILED BEFORE THE MUNSIFF'S COURT, KOLLAM.

EXT.P3: TRUE COPY OF THE ORDER OF ATTACHMENT OF SALARY DATED NIL PASSED BY THE MUNSIFF'S COURT, KOLLAM IN EP NO.103/98 IN AP NO.39/96.

EXT.P4: TRUE COPY OF THE SALARY CERTIFICATE DATED 4.3.2004 ISSUED TO THE PETITIONER.

PIUS C. KURIAKOSE,J.

W.P.(C) No.8484 of 2004

Dated: 29th May, 2007

JUDGMENT

Ext.P3 order of attachment of salary issued by the Munsiff's Court, Kollam is under challenge in this Writ Petition under Article 227 of the Constitution initiated by the judgment-debtor.

2. Heard Mr.B.Suresh Kumar, counsel for the petitioner and Mr.S.R.D.Prabhu, counsel for the 1st respondent.

3. Mr.Suresh Kumar, counsel for the petitioner submits that the net salary which is being drawn by the petitioner is only Rs.1304/- and more than 80% of that salary is now ordered to be attached.

4. Mr.S.R.D.Prabhu, counsel for the 1st respondent submits that the attachable portion of the salary in terms of Section 60 of the C.P.C. will be around Rs.2300/- going by Ext.P4 salary certificate produced by the petitioner himself.

5. Having considered the rival submissions made at the bar, I am inclined to agree with Mr.S.R.D.Prabhu who submits that what is now ordered to be attached is even less than the legally attachable portion. Learned counsel for the petitioner at this juncture submits that the petitioner need not be subjected to the embarrassment of the attachment over his salary. The petitioner will pay the amount

ordered to be attached every month by cash. Under these circumstances, even as I hold that there is no warrant for interfering with the impugned order in this proceedings, I direct the court below to keep the impugned order in abeyance on condition that the petitioner will pay every month commencing from 15.6.2007 at the rate of Rs.1300/-. In the event of any default, the petitioner will forfeit the benefit of this judgment and the impugned order will become operative.

The Writ Petition is disposed of as above. No costs.

srd

PIUS C.KURIAKOSE, JUDGE